

Guatemala

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After recent improvement, the Guatemalan criminal justice system suffered several reversals in 2014. The term for respected Attorney General Claudia Paz y Paz was questionably curtailed by seven months, and Yassmin Barrios, the judge who presided over the 2013 genocide trial against former general Efraín Ríos Montt, was suspended and fined. There were also irregularities in the selection of Supreme Court and appellate court justices.

Violence and threats continue against members of the media and human rights defenders. Ongoing allegations of corruption plague President Otto Pérez Molina and Vice President Roxana Baldetti Elías. Social and land conflicts go on, including surrounding the Santa Rita hydroelectric dam and a cement plant in Pajoques.

Political Rights and Civil Liberties:

Political Rights: 24 / 40 [Key]

A. Electoral Process: 9 / 12

The constitution stipulates a four-year presidential term and prohibits reelection. Members of the 158-seat, unicameral Congress of the Republic are elected to four-year terms. In 2011 parliamentary elections, the Patriotic Party (PP) captured 56 seats and National Unity for Hope won 48 seats; nine other parties took the remaining 54 seats. The PP's Otto Pérez Molina defeated Manuel Baldizón of the Renewed Democratic Liberty (LIDER) party in a November presidential runoff with 54 percent of the vote. The elections were generally considered free and fair despite accompanying violence, though electoral observers reported irregularities including intimidation, vote buying, and the burning of ballots and electoral boxes. The electoral authority, the Supreme Electoral Tribunal (TSE), was criticized for its slow transmission of election results.

B. Political Pluralism and Participation: 10 / 16

Elections take place within a highly fragmented and fluid multiparty system. The TSE has suspended 11 political parties for organizing campaign activities in anticipation of the 2015 elections. After the PP violated election laws by holding an early rally to announce its 2015 presidential candidate in September 2014, the TSE ordered its suspension for six months and removal of Vice President Baldetti from her post as secretary general of the party. The government uses the military to maintain internal security, despite restrictions imposed by the 1996 peace accord.

Although they comprise 44 percent of the population, members of indigenous communities hold only 12 percent of congressional seats. The indigenous population has a more significant representation at the local government level.

C. Functioning of Government: 5 / 12

Despite efforts to combat corruption, serious problems remain. Vice President Baldetti has been linked to several high-profile scandals and has purchased expensive homes with unexplained wealth. President Pérez has also been linked to unexplained wealth, including a luxury property in Zaragoza. In September 2014, President Pérez asked Minister of Health Jorge Villavicencio to resign and also announced that criminal charges would follow on the grounds that Villavicencio had mismanaged funds.

In May 2013, former president Alfonso Portillo (2000–04) was extradited to the United States, where he had been indicted in 2010 for allegedly embezzling state funds while in office and laundering the money through Guatemalan, European, and U.S. banks. He pleaded guilty in March 2014 and was sentenced to nearly six years in prison.

Although a Law against Corruption was passed in 2012, only three cases had made it to the courts as of September 2014. Guatemala was ranked 115 out of 175 countries and territories surveyed in Transparency International's 2014 Corruption Perceptions Index. According to a recent Latin American Public Opinion Project (LAPOP) study, in 2014 approximately 20 percent of respondents reported that they were victims of corruption.

Civil Liberties: 31 / 60 (-1)

D. Freedom of Expression and Belief: 12 / 16

While the constitution protects freedom of speech, journalists often face threats and practice self-censorship when covering drug trafficking, corruption, organized crime, and human rights violations. Threats come from public officials, drug traffickers, individuals aligned with companies operating in indigenous communities, and local security forces.

In January 2014, President Pérez filed a criminal complaint against José Rubén Zamora Marroquín, the editor of *elPeriódico*, accusing him of coercion, blackmail, extortion, violating the constitution, and insulting the president. While the president later dropped the charges, the newspaper is still fighting more than 70 legal complaints and has been the target of 15 cyberattacks, mostly tied to its investigations of government corruption. In September, the government was accused of spying on the offices of *elPeriódico* after it issued a public response to an article that had not yet been published. The government maintains that it received the article anonymously.

According to the Observatory of Journalists, as of the end of September 2014, there had been 48 death threats and attacks against journalists, in many cases perpetrated by officials. In response, the Guatemalan Human Rights Ombudsman announced the creation of a specific unit designed to improve protection for journalists. In October, a man accused of

three murders, including the 2013 killing of high-profile criminal attorney Lea de León, was convicted and sentenced to 90 years.

The press and most broadcast outlets are privately owned. Mexican businessman Remigio Ángel González owns a monopoly of broadcast television networks in Guatemala and has significant holdings in radio. Newspaper ownership is concentrated in the hands of business elites, and most papers have centrist or conservative editorial views. While the government is making an effort to improve the country's telecommunications infrastructure, internet access remains limited and the government is believed to conduct illegal online surveillance.

The constitution guarantees religious freedom. However, indigenous communities have faced discrimination for openly practicing the Mayan religion.

Although the government does not interfere with academic freedom, scholars have received death threats for questioning past human rights abuses or continuing injustices. The Guatemalan government allegedly interfered with the academic autonomy of the Latin American Faculty of Social Sciences (FLACSO) in June, when it reportedly circumvented FLACSO's selection process and attempted to replace the current director with a government-chosen appointee.

E. Associational and Organizational Rights: 6 / 12

The constitution guarantees freedom of assembly, though police frequently threaten force and have at times used violence against protesters. In September 2014, citizens organized protests nationwide in favor of the passage of a comprehensive rural development law. An ensuing confrontation with officials led to five protesters injured; two others were arrested.

The constitution guarantees freedom of association, and a variety of nongovernmental organizations (NGOs) operate in Guatemala, though they face significant obstacles. According to the Human Rights Defenders Protection Unit in Guatemala, a domestic NGO, attacks against human rights defenders rose from 305 in 2012 to 568 during the first eight months of 2013, with 18 human rights defenders killed as of November 2013 as compared to a total of 13 killed in all of 2012. In July 2014, the government canceled the temporary residence of two volunteers with Peace Brigades International without providing any rationale for its decision.

In August 2014, more than 1,500 police officers occupied the Q'eqchí communities of Cobán, Chisec, and Raxruhá following a nonviolent resistance movement in protest against the proposed Santa Rita hydroelectric dam, which threatens the integrity of ancestral Q'eqchí territory and was approved without community consultation—a key feature of the Guatemalan Peace Agreement on Identity and Rights of Indigenous Peoples. Three Q'eqchí villagers were killed, five were detained, and more than 60 were injured in the police raid.

Community protests and violent clashes have also accompanied the construction of a Productos Mineros Limited cement plant. Following 11 deaths, the government placed the municipality of San Juan Sacatepéquez under heightened security in September for a period

of 44 days. According to the government, armed men murdered eight residents of Pajoques in retaliation for their support of the cement plant and a proposed highway. Six individuals have been arrested, and 30 more are wanted in connection with the crimes. The owner of Productos Mineros Limited is a major financial supporter of President Pérez and the PP.

As of the end of 2014, a colonel and eight soldiers were awaiting trial for the May 2012 deaths of seven demonstrators at Cuatro Caminos during clashes between government forces and indigenous people. The Public Ministry and defense lawyers are currently debating the charges that should be brought against the soldiers.

Guatemala is home to a vigorous labor movement, but workers are frequently denied the right to organize and face mass firings and blacklisting, especially in export-processing zones. Trade union members are also subject to intimidation, violence, and murder, particularly in rural areas during land disputes. According to the International Trade Union Confederation, Guatemala is the most dangerous country in the world for trade unionists. In September, the U.S. trade representative requested that an arbitration panel meet to determine whether Guatemala has broken its commitment to protect workers. If found guilty, the country could be fined up to \$15 million annually or could be denied trade benefits.

F. Rule of Law: 5 / 16 (-1)

The judiciary is hobbled by corruption, inefficiency, capacity shortages, and the intimidation of judges and prosecutors. In February 2014, the Constitutional Court (CC) ruled that Attorney General Claudia Paz y Paz's term would end seven months early due to a technicality. In June, Paz y Paz was ordered not to leave the country, and her bank accounts were frozen. Many observers believe that the campaign against Paz y Paz is retribution for her attempts to prosecute Guatemala's political elite for criminal activity. Paz y Paz was instrumental in convicting former general Ríos Montt of genocide. Guatemala's new attorney general, Thelma Esperanza Aldana, took office in May following a process in which Paz y Paz, the second-highest-ranked candidate, did not make the final list presented to President Pérez. Aldana has been championed by both the president and friends of Ríos Montt, and her independence has been questioned. In April 2014, Yassmin Barrios, the judge who presided over Ríos Montt's 2013 trial, was suspended and fined \$650.

The selection processes for magistrates of the Supreme Court and the Appeals Court in fall 2014 were rife with irregularities and controversy. In October, appeals court magistrate Claudia Escobar Mejía presented evidence to the International Commission against Impunity in Guatemala (CICIG)—an international investigating team under Guatemalan law—that PP congressman Gudy Rivera had pressured her to rule in favor of Vice President Baldetti, against the TSE, in exchange for Escobar's September reelection to the court. Escobar publicly denounced irregularities in the selection process that benefited the ruling PP, and resigned from office in protest. She allegedly faced reprisal as other judges ordered a review of her courtroom. Meanwhile, the CC suspended the results of September court elections a few days later, following demands from 12 other judges for an examination of the selection process, including allegedly inappropriate selection criteria and failure to verify candidates'

background information. However, in November the CC rejected all appeals and allowed the newly elected judges to take their seats.

Witnesses and judicial-sector workers continue to be threatened and, in some cases, murdered. According to a 2013 report from the CICIG, impunity levels have decreased from 93 percent to 70 percent since the commission's inception in 2007. A June 2014 study by the Chile-based Centro de Estudios de Justicia de las Americas recognized improvements in the Public Ministry's criminal prosecution system, including an increase in the number of cases resolved without going to trial and greater levels of accountability and transparency. During the first six months of the year, more than 8,000 sentences for violent crimes were issued, many for crimes against women.

Police continue to be accused of torture, extortion, kidnapping, extrajudicial killings, and drug-related crimes, although several notable prosecutions took place in 2014. Four police officers were arrested in September for their connection to a kidnapping network.

Prison conditions are harsh, and facilities are overcrowded and rife with gang- and drug-related violence and corruption. According to Guatemala's National Economic Research Center, as of early June, 17,942 people were imprisoned in a system designed to hold 6,412 people. Of those imprisoned, 49 percent are awaiting trial. In September, the military was deployed to reinforce security at the country's 22 prisons. Prisoners, including Byron Lima Oliva, who is serving time for his involvement in the murder of Bishop Juan Gerardi, have been known to come and go from prison without authorization. Byron Lima was arrested in September on charges related to organized crime and money laundering after building an empire behind bars. The director general and former deputy director of the penitentiary system were also arrested for their involvement. Lima has been connected to several high-ranking officials in the governing PP.

Although homicides have decreased by approximately one-third since 2009, Guatemala remains one of the most violent countries in Latin America. Violence related to the transport of drugs between South America and the United States has spilled over the border from Mexico, with rival Mexican and Guatemalan gangs battling for territory. These groups have operated with impunity in the northern jungles, which serve as a storage and transit hub for cocaine. The Pérez administration has responded to this situation by expanding the military's role in fighting crime, including creating special task forces to investigate kidnappings, robberies, extortion, and homicides, and building five military bases along well-known drug trafficking routes.

Citizens continue to take the law into their own hands. According to the Guatemala-based Mutual Support Group, lynching increased in 2013, with 47 people killed.

Perpetrators of past human rights atrocities, especially those during the 1960–96 civil war, are being prosecuted. The trial of Ríos Montt—whose May 2013 conviction for genocide was overturned by the CC 10 days after it was issued—is scheduled to resume in 2015, a delay that has prompted criticism from international human rights groups. In July 2014, former resistance commander Fermín Felipe Solano Barillas was sentenced to 90 years in prison after being found guilty of homicide and crimes against humanity, including the 1988

massacre of 22 civilians in the village of El Aguacate, Chimaltenango. The Court for High-Risk Crimes ruled that there was sufficient evidence to open a trial against two members of the army for the sexual and domestic slavery of Q'eqchí women during the civil war.

Indigenous communities suffer from especially high rates of poverty, illiteracy, and infant mortality. Indigenous women are particularly marginalized. Discrimination against the Mayan community is a major concern. In August 2013, Pérez announced the creation of a cabinet position dedicated to indigenous peoples.

In recent years, the government has approved the eviction of indigenous groups to make way for mining, hydroelectric, and other development projects. In October 2014, the government agreed to pay the equivalent of \$155 million to residents of 33 indigenous communities who were evicted or killed during construction of the Chixoy dam in 1978.

Members of the LGBT (lesbian, gay, bisexual, and transgender) community are not covered under antidiscrimination laws, and continue to face discrimination, violence, and police abuse. According to the Human Rights Ombudsman, people suffering from AIDS also face discrimination.

G. Personal Autonomy and Individual Rights: 8 / 16

Nonstate actors including gangs and organized crime threaten freedom of travel, residence, and employment. Private businesses continue to experience high rates of contraband smuggling and extortion by these groups. As of mid-August 2014, gangs had killed more than 700 people who refused to pay extortion money. Property rights and economic freedom rarely extend beyond those Guatemalans with wealth and political connections.

The constitution prohibits discrimination based on gender, though gender inequalities persist in practice. Sexual harassment in the workplace is not penalized. Young women who migrate to the capital for work are especially vulnerable to harassment and inhumane labor conditions. Physical and sexual violence against women and children, including domestic violence, remain widespread, with perpetrators rarely prosecuted. Women are underrepresented in government posts and hold just 13 percent of the seats in Congress.

Guatemala has one of the highest rates of child labor in the Americas. The government does not fully comply with the minimum standards for eliminating trafficking, but according to the U.S. State Department it is making efforts to do so, including launching a program to provide specialized services for trafficking victims. The kidnapping of children for illegal adoption remains a concern, as does the trafficking of women and children for labor and sexual slavery.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

Full Methodology